

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

BAR K, LLC, et al.,

Plaintiffs,

vs.

UNITED STATES OF AMERICA, et  
al,

Defendants.

**CV 19-06-BU-BMM**

**ORDER ON DEFENDANTS’  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT  
(Doc. 176).**

**BACKGROUND.**

Plaintiffs Bar K Ranch, LLC, Michael Walsh, Fred Walsh, and Eileen White (collectively “Plaintiffs”) filed an Amended Complaint for declaratory, injunctive, and equitable relief, seeking clarification on several public and private rights of way over roads in Madison County Montana. Doc. 23. Plaintiffs filed a Motion for Partial Summary Judgment. Doc. 80. Plaintiffs asked the Court to declare invalid a 1969 road abandonment in Madison County, Montana. Doc. 81. The Court held a hearing on February 22, 2021. Doc. 167.

The Court denied Plaintiffs’ Motion for Partial Summary Judgment. Doc. 175. The Court determined that Plaintiffs failed to demonstrate that Madison County lacked a clear intent to abandon the petitioned road in 1969. *Id.* at 16. The Court instructed Defendants to file a cross motion for summary judgment if they

sought to pursue a summary judgment determination that Madison County abandoned properly the portion of the Lower Road at issue in Plaintiffs' Motion for Partial Summary Judgment (Doc. 80). *Id.* The Court informed the parties that they could rely on prior briefing.

The United States filed a Cross-Motion for Summary Judgment. Doc. 176. The United States contend that Plaintiffs oppose the motion but wish to rely, pursuant to the Court's Order (Doc. 175), on prior briefing. *Id.* at 2.

For the reasons and analysis laid out in the Court's Order (Doc. 175), the United States's Cross-Motion for Partial Summary Judgment is granted.

**IT IS HEREBY ORDERED:**

1. Defendant the United States's Cross-Motion for Partial Summary Judgment (Doc. 176) is **GRANTED**.
2. Madison County abandoned properly in 1969 the portion of the Lower Road at issue in Plaintiffs' Motion for Partial Summary Judgment (Doc. 80).

Dated the 23rd day of June, 2021.



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Brian Morris, Chief District Judge  
United States District Court